

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MOHAMMAD ABDULLAH and DEPARTMENT OF AGRICULTURE,
INSPECTION OPERATIONS, Topeka, KS

*Docket No. 00-1148; Submitted on the Record;
Issued March 7, 2001*

DECISION and ORDER

Before BRADLEY T. KNOTT, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

The issue is whether appellant is entitled to more than a three percent permanent impairment of his left arm for which he received a schedule award.

The Board has duly reviewed the case on appeal and finds that appellant is not entitled to more than a three percent permanent impairment of his left arm.

Appellant, then a 52-year-old veterinary medical officer, filed a notice of traumatic injury on October 27, 1995 for his left shoulder condition. The Office of Workers' Compensation Programs accepted appellant's claim for rotator cuff tear of the left shoulder on January 16, 1998 and authorized arthroscopic surgery on January 9, 1996.

By decision dated July 27, 1998, the Office terminated appellant's benefits for continuing disability. On September 1, 1998 the Office awarded appellant a

three percent permanent disability for the left upper extremity. Appellant requested an oral hearing on September 18, 1998 and on March 31, 1999 the hearing representative affirmed the Office's September 1, 1998 decision.

Under section 8107 of the Federal Employees' Compensation Act¹ and section 10.404 of the implementing federal regulations,² schedule awards are payable for permanent impairment of specified body members, functions or organs. However, neither the Act nor the regulations specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice for all claimants the Office adopted the American Medical

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404.

Association (A.M.A.), *Guides to the Evaluation of Permanent Impairment*³ as a standard for determining the percentage of impairment and the Board has concurred in such adoption.⁴

Before the A.M.A., *Guides* may be utilized, however, a description of appellant's impairment must be obtained from appellant's attending physician. The Federal (FECA) Procedure Manual provides that, in obtaining medical evidence required for a schedule award, the evaluation made by the attending physician must include a "detailed description of the impairment which includes, where applicable, the loss in degrees of active and passive motion of the affected member or function, the amount of any atrophy or deformity, decreases in strength or disturbance of sensation, or other pertinent description of the impairment."⁵ This description must be in sufficient detail so that the claims examiner and others reviewing the file will be able to clearly visualize the impairment with its restrictions and limitations.⁶

In this case, appellant's attending physician, Dr. Richard Wendt, a Board-certified orthopaedic surgeon, reported on April 25, 1997 that appellant had a ten percent permanent impairment of his left upper extremity, related to the work injury. He stated that he had initially seen appellant on November 2, 1995 when he was undergoing therapy, generalized strengthening, local modalities and cortisone injections to his left shoulder. When appellant continued to have pain and discomfort, a diagnostic arthroscopy was performed and a tear in his left rotator cuff was found. Appellant underwent surgery to repair his left shoulder on January 9, 1996.

Dr. Wendt stated that in December 1996 appellant reached his maximum medical improvement from the shoulder. He did not report any examination findings regarding range of motion or abnormal neurological findings. Based on the stated information, Dr. Wendt opined that appellant had a ten percent permanent impairment of his left shoulder. He did not correlate any findings or conclusions with the A.M.A., *Guides*.

Because Dr. Wendt did not show how he arrived at a ten percent permanent impairment in accordance with the appropriate section of the A.M.A., *Guides*, the Office correctly referred his report to Dr. Giles C. Floyd, a Board-certified orthopaedic surgeon, for a second opinion.

Dr. Floyd examined appellant on December 19, 1997. He characterized appellant's symptomatology as "intermittent, slight to occasionally moderate left shoulder pain." Dr. Floyd added that appellant had "a mild restriction of left shoulder motion." He diagnosed "post subacromial decompression of the left shoulder." Dr. Floyd correctly performed tests of the range of motion of appellant's neck and upper extremities.

³ A.M.A., *Guides* (4th ed. 1993).

⁴ *Leisa D. Vassar*, 40 ECAB 1287 (1989).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.6(c) (March 1995).

⁶ *Noe L. Flores*, 49 ECAB 344 (1998).

The Office referred Dr. Floyd's report to the district medical adviser on March 5, 1998 for calculation of appellant's permanent impairment, using the loss of motion figures and specific functional impairments provided in his report.⁷ The district medical adviser reviewed the medical evidence of record and concluded, based upon Dr. Floyd's December 19, 1997 report, that appellant had a three percent impairment of the left upper extremity.

The district medical adviser correctly applied the A.M.A., *Guides* to the medical findings of record. Using Table 15, page 54, the district medical adviser noted the maximum axillary upper extremity impairment due to pain to be 5 percent. Using Table 11, page 48, Grade 3, he determined that appellant had decreased sensibility with or without normal sensation of pain, which interferes with activity, which was a Grade 3 impairment. A Grade 3 impairment would allow up to 60 percent of the allowed maximal impairment value.

The medical adviser multiplied 60 percent of the maximum 5 percent to calculate a 3 percent impairment of the left upper extremity. In addition, the medical adviser evaluated appellant's range of motion using Figure 44, page 45. The only abnormal range of motion recorded was 75 degrees of external rotation of the left shoulder. Applying Figure 44, however, the degree of impairment for 75 degrees of external rotation is 0.

The district medical adviser compared Dr. Floyd's clinical findings to the appropriate tables and pages in the A.M.A., *Guides* and properly calculated a three percent permanent impairment of the left upper extremity. Dr. Wendt's rating of 10 percent is not based on the A.M.A., *Guides* and is, therefore, of no probative value. Accordingly, the district medical adviser's opinion that appellant has a three percent permanent impairment of his left upper extremity is entitled to the weight of the medical evidence.

⁷ James E. Jenkins, 39 ECAB 860 (1988).

The March 31, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC

March 7, 2001

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member